

RESOLUTION R 3275

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING AN AGREEMENT BETWEEN THE CITY OF KIRKLAND AND TELTONE CORPORATION FOR THE DEDICATION OF PUBLIC RIGHT-OF-WAY AND AUTHORIZING THE CITY MANAGER AND DIRECTOR OF ADMINISTRATION AND FINANCE TO SIGN SAID AGREEMENT.

Whereas, Teltone Corporation has recently constructed an additional building and parking facilities on its property within Kirkland; and

Whereas, as a condition to issuance of a permanent occupancy permit, the City of Kirkland has requested and Teltone Corporation is willing to agree to convey certain right-of-way to allow future construction of a City street; and


Whereas, to accomplish such dedication of required right-of-way and as consideration for conveyance for the right-of-way by Telton Corporation to Kirkland, both parties wish to agree to certain terms and considerations as set forth in that certain agreement attached to the original of this Resolution and by this reference incorporated herein;

Now therefore, be it resolved by the City Council of the City of Kirkland as follows:

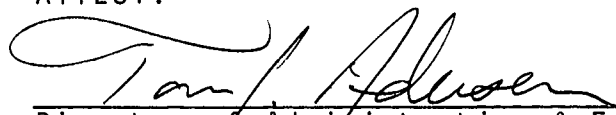
Section 1. That certain agreement between the Teltone Corporation and the City of Kirkland providing for dedication of right-of-way to be used for future construction of a City street as set forth in Exhibit "1" to this Resolution is hereby approved and the City Manager and the Director of Administration and Finance are hereby authorized to sign said agreement on behalf of the City of Kirkland.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 21st day of April, 1986.

Signed in authentication thereof this 21st day of April, 1986.


MAYOR

ATTEST:


Director of Administration & Finance
(ex officio City Clerk)

AGREEMENT

This AGREEMENT is made this _____ day of _____, 1986, by and between TELTONE CORPORATION, a Washington Corporation (hereinafter referred to as "Teltone"), and THE CITY OF KIRKLAND, WASHINGTON, a municipal corporation (hereinafter referred to as "Kirkland").

RECITALS:

1. Teltone has recently constructed a building and parking facilities at 10801 - 120th Avenue Northeast in Kirkland. A second building, along with landscaping, parking and rock retaining walls, has existed on the property for a number of years. A legal description of the Teltone property is attached as Exhibit "1".

2. As a condition to issuance of a permanent occupancy permit for the recently constructed building and facilities, Kirkland has requested that Teltone agree to convey certain right-of-way to allow future construction of a City street. The right-of-way to be conveyed is identified and described on the drawing attached as Exhibit "A".

3. To accomplish dedication of the required right-of-way, and as consideration for conveyance of the right-of-way to be conveyed, Teltone and Kirkland wish to agree upon certain terms for the dedication.

THEREFORE, it is agreed by the parties as follows:

A. Upon execution of this Agreement, Teltone shall deliver an executed right-of-way deed to Kirkland in the form and with the legal description attached hereto as Exhibit "2".

B. Upon execution of this Agreement, Kirkland shall grant a permanent occupancy permit for the facilities as currently constructed on the Teltone property at 10801 - 120th Avenue Northeast.

C. Kirkland agrees and warrants that, as of the date of the right-of-way dedication, the dedication shall not create any nonconformance with or violation of any Kirkland zoning ordinance or building code provision for the Teltone facilities contained on the property described in Exhibit "1".

D. When and if a public street is constructed within the right-of-way conveyed, Kirkland shall replace or repair any existing retaining walls or landscaping, regardless

of location, which may be disturbed by the construction. Any replacement landscaping and/or retaining walls shall be of a similar quality and character to the landscaping and rockery currently existing on the property. Retaining walls shall be structurally sufficient to prevent any future damage to the Teltone property and facilities, and Kirkland shall be responsible for any such damage which may subsequently be caused by structural failure of such walls.

E. Kirkland agrees that the two existing access roadways entering the Teltone property shall remain after construction of any new street. The grade of the access roads may be altered, and the angle of intersection with the new street may be modified for safety considerations, however, no modifications shall be made which adversely affect the use of the access roadways to Teltone's property and facilities.

F. Teltone may construct reasonable additional access roadways for future phases of development to any new public street constructed within the right-of-way. The location of the actual access points shall be approved by the Kirkland Public Works Department.

G. Teltone shall be given the right to review and comment upon construction plans for any new roadway prior to solicitation of construction bids by Kirkland.

H. Should an LID be created by Kirkland for construction of the proposed street within the dedicated right-of-way, Teltone shall be allowed a base credit of \$234,589.56 to be applied against any benefit assessment for the LID chargeable to the property described in Exhibit 1. This credit shall be adjusted upward for inflation up to the date on which any benefit assessment is fixed. The amount of the credit shall be adjusted upward by an amount calculated as follows: Two Hundred Thirty-four Thousand Five Hundred Eighty-nine and 56/100 Dollars (\$234,589.56) multiplied by a fraction, the numerator of which is the "Consumer Price Index - Seasonably Adjusted U.S. City Average For All Items For All Urban Consumers (1967 = 100)" published monthly in the "Monthly Labor Review" of the Bureau of Labor Statistics of the United States Department of Labor ("CPI-U") for the month during which the benefit assessment is to be fixed, and the denominator of which is the CPI-U for the month during which this Agreement is executed.

In the event the CPI-U is discontinued, the "Consumer Price Index - Seasonally Adjusted U.S. Average for All Items for Urban Wage Earners and Clerical Workers (1967 = 100)" published monthly in the "Monthly Labor Review" by the Bureau of Labor Statistics of the United States Department of Labor ("CPI-W") shall be used for making the

computation in the paragraph above. In the event the CPI-W is discontinued, comparable statistics on the purchasing power of the consumer dollar published by the Bureau of Labor Statistics of the U.S. Department of Labor, or its successor, shall be used for making the computation in the paragraph above. In the event such statistics shall no longer be maintained by an agency of the U.S. Government, comparable statistics published by a recognized financial periodical or recognized authority selected jointly by the parties shall be used for making the computation in the paragraph above.

In the event the base year ("1967 = 100") or other base year used in computing the Consumer Price Index is changed, the figures used in making the adjustment in the paragraphs above shall accordingly be changed so that all increases in the Index are taken into account notwithstanding any such change in the base year.

I. In the event the right-of-way herein granted shall not have been improved for use as a public street by December 31, 2001, Teltone shall have the right to petition Kirkland for vacation of the right-of-way and Teltone shall not be required to pay any compensation for vacated right-of-way obtained under such petition.

K. This Agreement shall inure to the benefit of, and be binding upon, all heirs, successors and assigns of the parties hereto.

L. The rights and obligations contained herein shall not merge with the deed conveying the right-of-way described herein, but shall survive until fulfilled.

DATED this 14th day of April, 1986.

TELTONE CORPORATION

By: Patrick J. Weller
Its: President

CITY OF KIRKLAND

By: _____
Its: _____

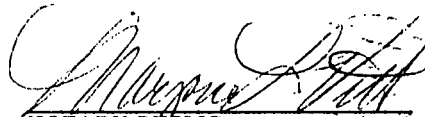
By: _____
Its: _____



STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that PATRICK WELKER signed this instrument and on oath stated that HE was authorized to execute the instrument and acknowledged it as the PRESIDENT of TELTONE CORPORATION to be the free and voluntary act of such corporation for the uses and purposes mentioned in this instrument.

DATED: April 14, 1986.


NOTARY PUBLIC
My appointment expires: 2/19/90

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ and _____ signed this instrument and on oath stated that they were authorized to execute the instrument and acknowledged it as the _____ and _____ of CITY OF KIRKLAND to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED: _____, 1986.

NOTARY PUBLIC
My appointment expires: _____

PARCEL A:

That portion of Tract 46 in Kirkland-Juanita Acre Tracts, as per plat recorded in Volume 16 of Plats, page 63, records of King County, described as follows:

Beginning at the Southeast corner of said Tract 46;
 thence North $0^{\circ}59'24''$ East, along the East line of said tract, 230.02 feet to the North line of the South 230.00 feet in width of said Tract 46;
 thence North $89^{\circ}44'44''$ West, along said North line, 263.16 feet;
 thence South $0^{\circ}59'25''$ West 105.18 feet;
 thence South $80^{\circ}24'27''$ West 54.98 feet;
 thence South $41^{\circ}26'28''$ West 153.37 feet to the South line of said tract;
 thence South $89^{\circ}44'44''$ East, along said South line, 416.73 feet to the point of beginning;

TOGETHER WITH that vacated portion of N.E. 108th Street which would attach thereto by operation of law as provided by Ordinance No. 2226 of the City of Kirkland recorded under Recording No. 730713-0522;

Situate in the City of Kirkland, County of King, State of Washington.

PARCEL B:

That portion of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 33, Township 26 North, Range 5 East W.M. lying Westerly of State Highway No. 405 and lying Easterly of the following described line:

Beginning at the Northeast corner of said subdivision;
 thence North $89^{\circ}44'44''$ West 442.55 feet, along the North line of said subdivision, to the true point of beginning of said line;
 thence South $06^{\circ}56'44''$ East 328.64 feet to the North line of said 330.00 feet of said subdivision and the terminus of said line;

EXCEPT the North 30 feet thereof as conveyed to the City of Kirkland for N.E. 108th Street by deed recorded under Recording No. 6244588;

AND EXCEPT the South 330 feet thereof;

DESCRIPTION - Parcel D (continued):

distance of 100.22 feet to a point of tangency;
 thence South 60°09'34" West, along said easement centerline,
 a distance of 197.92 feet to the North line of the South
 230.02 feet in width of said Tract 46;
 thence South 89°44'44" East, along said North line, a distance
 of 219.13 feet;
 thence North 45°37'05" East a distance of 46.97 feet to a
 point on the East line of said Tract 46;
 thence North 0°59'24" East, along the East line of said Tracts
 46 and 47, a distance of 196.95 feet to the true point of
 beginning;

Situate in the City of Kirkland, County of King, State of
 Washington.

PARCEL E:

That portion of Tract 46 in Kirkland-Juanita Acre Tracts, as
 per plat recorded in Volume 16 of Plats, page 63, records of
 King County, described as follows:

Beginning at the Southeast corner of said tract;
 thence North 0°59'24" East, along the East line of said tract,
 230.02 feet to the North line of the South 230.00 feet in
 width of said Tract 46;
 thence North 89°44'44" West, along said North line, 263.16
 feet to the true point of beginning;
 thence South 0°59'24" West 105.18 feet;
 thence South 80°24'27" West 54.98 feet;
 thence North 26°06'28" East 127.32 feet to the true point of
 beginning;

Situate in the City of Kirkland, County of King, State of
 Washington.

PARCEL F:

That portion of the North 1/2 of the Northwest 1/4 of the
 Southwest 1/4 of Section 33, Township 26 North, Range 5
 East W.M. lying Westerly of the following described line:

- continued -

DESCRIPTION - Parcel B (continued):

TOGETHER WITH that vacated portion, if any, of N.E. 108th Street which would attach thereto by operation of law as provided by Ordinance No. 2226 of the City of Kirkland recorded under Recording No. 730713-0522;

Situate in the City of Kirkland, County of King, State of Washington.

PARCEL C:

Beginning at the Southeast corner of Tract 46 in Kirkland-Juanita Acre Tracts, as per plat recorded in Volume 16 of Plats, page 63, records of King County;
thence North $00^{\circ}59'24''$ East, along the East line of said tract, 230.02 feet to the true point of beginning;
thence continuing North $00^{\circ}59'24''$ East 33.00 feet;
thence Southwesterly to a point which bears North $89^{\circ}44'44''$ West 33.00 feet from the true point of beginning;
thence South $89^{\circ}44'44''$ East 33.00 feet to the true point of beginning;

Situate in the City of Kirkland, County of King, State of Washington.

PARCEL D:

That portion of Tracts 46 and 47 in Kirkland-Juanita Acre Tracts, as per plat recorded in Volume 16 of Plats, page 63, records of King County, described as follows:

Beginning at the Northwest corner of said Tract 47;
thence South $65^{\circ}24'31''$ East a distance of 106.56 feet to the South line of the North 43.43 feet in width of said Tract 47;
thence South $89^{\circ}27'44''$ East, along said South line, a distance of 238.94 feet to the East line of said Tract 47;
thence South $0^{\circ}59'24''$ West, along the East line of said Tract 47, a distance of 122.39 feet to the centerline of an access and utility easement 30 feet in width being referred to as "Easement No. 2" in that certain land sale agreement recorded under Recording No. 720207-0181 and the true point of beginning;
thence South $20^{\circ}33'34''$ West, along said easement centerline, a distance of 59.23 feet to the beginning of a curve to the right with a radius of 145.0 feet;
thence Southwesterly, along said easement centerline and along said curve, through a central angle of $39^{\circ}36'00''$ an arc

DESCRIPTION - Parcel F (continued):

Beginning at the Northeast corner of said subdivision;
thence North 89°44'44" West 442.55 feet, along the North line
of said subdivision, to the true point of beginning of this
line;
thence South 06°56'44" East 328.64 feet to the North line of
the South 330 feet of said subdivision and the terminus of
said line;

EXCEPT the South 330 feet of said subdivision;

AND EXCEPT that portion thereof lying Westerly of the following
described line:

Beginning at the Northwest corner of said subdivision;
thence North 89°44'44" East 442.55 feet, along the North line
of said subdivision, to the true point of beginning of this
line;
thence South 06°56'44" East 328.44 feet to the North line of
the South 330 feet of said subdivision and the terminus of
said line;

AND EXCEPT the North 30 feet thereof as conveyed to the City of
Kirkland for N.E. 108th Street by instrument recorded under
Recording No. 6244587;

Situate in the City of Kirkland, County of King, State of
Washington.

PARCEL G:

That portion of the North 1/2 of the Northwest 1/4 of the
Southwest 1/4 of Section 33, Township 26 North, Range 5
East W.M. lying Westerly of the following described line:

Beginning at the Northwest corner of said subdivision;
thence North 89°44'44" East 442.55 feet, along the North line
of said subdivision, to the true point of beginning of this line;
thence South 06°56'44" East 328.64 feet to the North line of the
South 330 feet of said subdivision and the terminus of said line;

EXCEPT the South 330 feet of said subdivision;

AND EXCEPT that portion thereof for railroad right-of-way;

AND EXCEPT the North 30 feet thereof and the West 30 feet thereof
as conveyed to the City of Kirkland for N.E. 108th Street and 116th
Avenue N.E. by instruments recorded under Recording Nos. 6244587
and 6244588;

Situate in the City of Kirkland, County of King, State of
Washington.